

**JJ and W, LLC Variance Application**

**June 16, 2006**

JJ and W, LLC., the owner of the subject property, submits this memorandum in support of its request for a variance from application of the City's residential noise standards to the industrial uses on its property. The variance is necessary and appropriate for reasons outlined in this letter. In brief, the variance is necessary to make certain that Calstone Company. and Peninsula Building Materials Co., tenants on the property, may continue to operate in the same manner as both businesses have historically operated.

To place this request for a variance in context, I think it helpful to describe the historical operation of both businesses. Peninsula Building Materials Co. ("PBM") has been providing quality building materials and outstanding service to the greater Bay Area for well over 80 years. Its Sunnyvale location has been in continuous, uninterrupted operation since 1968. PBM offers one of Northern California's largest inventories of natural stone from all over the world. PBM also carries an extensive array of other building materials, including brick, hardware, bulk materials, and more. The hours of operation are from 7:00 A.M. to 5:00 P.M. Monday through Friday.

In order to function as a full service building material dealer with such a large inventory, PBM utilizes several acres of outdoor storage, using forklifts to move product within the yard and onto outgoing trucks. PBM owns and operates 8 to 10 trucks (end dump trucks and semi-trailers) for delivery. On a daily basis, an average of 30 deliveries (round trip) are made to construction sites. PBM is pleased to be an industry leader in the safe and efficient delivery to local areas. In addition to PBM's trucks, contractors and material vendors bring products in and out of PBM's yard via Aster Avenue. This truck traffic is actually more significant than PBM's delivery trucks. The trucks are of all sizes up to semitrailers. While most of the traffic is generated during regular business hours, on occasion, trucks arriving from out of state and for other reasons, may arrive during off hours and park on the premises.

Calstone Company manufactures a variety of concrete products. Calstone has been in continuous, uninterrupted operation at its Sunnyvale location since 1971. Calstone is a manufacturing facility that is designed to operate three shifts, 24 hours per day, 7 days per week if market conditions warrant. By way of example, in the past Calstone has operated continuously on a 24/7 basis for periods as long as three years.

Calstone converts raw aggregate material into finished building block and stone. All raw materials are received at the business via truck and rail. The nature of the manufacturing process dictates that the manufacturing is done outside. All of the raw materials are stored outside, on site in silos. As part of the manufacturing process, the raw materials are weighed and mixed with water to produce a low slump concrete. The concrete is then fed into one of the 2 Besser machines. These machines are best described as small pallet high speed molding machines and are located next to each other surrounded by the curing chambers and open air. The concrete product is then vibrated, compacted, and stripped

from the machine cycling every 8 seconds on average. The molded product is then transferred to curing chambers for about 16 hours. The cured product is removed, palletized, and placed into the yard for storage until it is needed by our customers. It currently takes an average of 20 full truckloads (or mix of trucks and rail cars) to feed the plant for a full day of production, and the average number of trucks that are used to ship the finish products from Calstone average about 20 per day. This manufacturing process is noise generating and cannot be avoided or mitigated.

Given that the subject property is situated in the ITR Zoning District, residential uses adjacent to the property have been approved, and it is foreseeable that more residential uses will come to the area. The residential uses have significantly lower noise standards than those applicable to Calstone's and PBM's industrial type uses. In order for both Calstone and PBM to continue to do business at their historical level of operations, a variance for the application of industrial noise standards is necessary. If Calstone and PBM are held to a residential noise standard, both businesses could not stay in business.

The applicant requests that an industrial noise standard, measured at 75 dba at the property line be made the operational standard for this uniquely situated property. Further, that the subject property's current uses shall not be subject to or in any way accountable to meet residential noise standards.

The variance is justified because both businesses are unique uses primarily because they are outdoor type uses that generate noise in the normal course of business. In fact, both businesses could not operate without generating industrial levels of noise.

The grant of a variance will not be materially detrimental to adjacent properties, particularly those approved for residential use, primarily because the industrial noise of both businesses was recognized as an environmental factor during the approvals process and noise mitigation measures were incorporated in the conditions of approval.

The grant of the variance will not constitute a special privilege because of the unique and historical nature of the businesses. There are no other industrial uses of this type that are primarily outdoor type uses in the zoning district.

As a final note, by making this application for a variance, the applicant does not waive any rights it may have to challenge the application of the residential noise standard on the pre-existing industrial uses on the subject property.

For all of the reasons discussed above, the applicant believes this application should be granted.